



DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA-2020-0087]

Petition for Waiver of Compliance and Extension of Comment Period

On July 25, 2022, the Federal Railroad Administration (FRA) published notice¹ of its receipt of a petition dated June 28, 2022, from Illinois Central Railroad Company, for itself and on behalf of the U.S. railroad subsidiaries operating under the Canadian National Railway Company (CN), resubmitting a petition for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 232 (Brake System Safety Standards for Freight and Other Non-Passenger Trains and Equipment; End-Of-Train Devices). The relevant FRA docket number is FRA-2020-0087.

As noted in FRA's July 25, 2022, notice, CN requested to use software technology to implement a virtual three-dimensional simulation as an alternative to satisfy the "hands-on" portion of periodic refresher training required by 49 CFR 232.203(b)(8). Refresher training is required at intervals not to exceed 3 years, and must consist of classroom and hands-on training, as well as testing. CN cites FRA's January 10, 2022, denial² of its previous petition and states that its June 28, 2022, resubmission addresses the concerns raised in FRA's decision letter. In support of its petition, CN explains that the proposed "systematic, blended training curriculum" "exceeds the training objectives" required by the regulation "and is designed to increase user proficiency" and "reduc[e] air brake defects across the CN network." CN notes that it

¹ See <https://www.regulations.gov/document/FRA-2020-0087-0009>.

² See <https://www.regulations.gov/document/FRA-2020-0087-0006>.

“only plans to use this requested waiver for refresher training of employees in train and engine service,” and not for any other craft.

FRA’s July 25, 2022, notice provided a 45-day public comment period (ending September 8, 2022) on CN’s request for relief. Subsequent to publication of that notice, in a letter dated August 19, 2022, CN stated that it is seeking to assemble a meeting and demonstration of the subject software for FRA and union representatives in “the second half of September.”³ Therefore, CN requests to extend the comment period by an additional 45 days to allow comments to be submitted following the software demonstration.

FRA understands that the demonstration of the subject software has been scheduled for the end of September. Accordingly, to ensure all interested parties have ample time to provide their comments subsequent to that demonstration, FRA is extending the comment period in this waiver proceeding for an additional 60 days.

A copy of CN’s petition, as well as all written communications concerning the petition, is available for review online at www.regulations.gov.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted at <http://www.regulations.gov>. Follow the online instructions for submitting comments.

Communications received by November 7, 2022 will be considered by FRA

³ See <https://www.regulations.gov/document/FRA-2020-0087-0012>.

before final action is taken. Comments received after that date will be considered if practicable.

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), the U.S. Department of Transportation (DOT) solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at <https://www.transportation.gov/privacy>. See also <https://www.regulations.gov/privacy-notice> for the privacy notice of www.regulations.gov.

Issued in Washington, DC.

John Karl Alexy,

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Chief Safety Officer.

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